

Cooper, Carvin & Rosenthal

Lawyers

A Professional Limited Liability Company

Suite 200

1500 K Street, N.W.
Washington, D.C. 20005

(202) 220-9600

Fax (202) 220-9601

January 15, 1999

VIA HAND DELIVERY

Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street, NW, Room 657
Washington, DC 20463

Re: MUR 4865

Dear Mr. Noble:

Pursuant to 11 CFR § 111.6, the National Rifle Association and its Executive Vice President, Wayne LaPierre (collectively the "NRA"), respondents in MUR 4865, hereby respond as follows to the letter complaint of Weldon H. Clark, Jr. ("Clark") dated November 24, 1998 (the "Clark letter"). The date of this response has been fixed by the letter of Jennifer Boyt to Kenneth Marcus dated January 5, 1999.

The matter under review is an undisguised attempt to involve the Commission in ongoing political and policy disputes within the leadership of the NRA, a private association. The NRA is a not-for-profit, non-stock membership organization that engages in a variety of educational, recreational and public service activities related to the use of firearms for recreation and defense. In recent years, the NRA has experienced widely-reported internal dissension. Much of this controversy has surrounded certain present and former officers and directors of the NRA who have publicly attacked the current NRA leadership, respondent LaPierre in particular. This dissident faction was recently rebuffed in the NRA's internal elections. Having failed to persuade the NRA's membership of the merits of their positions, this faction now attempts to have the government take sides in the organization's internal disputes.

Neither the Clark letter nor its attachments, taken individually or collectively, even remotely satisfies the requirements of a "complaint" which may form the basis for FEC investigation under the FECA or the FEC's compliance procedures. For instance, Mr. Clark's "complaint" fails to satisfy each of these threshold procedural requirements:

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First, Clark's complaint is neither sworn to nor signed in the presence of a notary, in violation of the FECA's requirement that a complaint "shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of Title 18." 2 U.S.C. § 437g(a)(1); see also 11 CFR § 111.4(b)(2) ("[t]he contents of a complaint shall be sworn to and signed in the presence of a notary public and shall be notarized") (emphasis added). The FEC lacks jurisdiction to investigate Clark's letter because the FEC may investigate a complaint only if the complainant "first file[s] a signed, sworn, notarized complaint with the Commission." *Federal Election Commission v. Machinists Non-Partisan Political League*, 655 F.2d 380, 387-88 (D.C. Cir.), cert. denied, 454 U.S. 897 (1981). Although Clark attaches a few affidavits to his letter, they do not support his unsworn allegations.

Second, Clark does not state whether his allegations are based upon hearsay or personal knowledge, in violation of the Commission's requirement that "[t]he complaint should differentiate between statements based upon personal knowledge and statements based upon information and belief," 11 CFR § 111.4(c), and it appears that most of his allegations are based on unidentified hearsay.

Third, Clark's letter is so vague that no reasonable respondent could determine what facts are alleged, despite the Commission's requirement that a complaint "should contain a clear and concise recitation of the facts which describe a violation of a state or regulation over which the Commission has jurisdiction." 11 CFR § 111.4(d)(3).

Fourth, Clark fails to support allegations with relevant documentation, in violation of the Commission's requirement that a complaint "should be accompanied by any documentation supporting the facts alleged if such documentation is known to, or available to, the complainant." 11 CFR § 111.4(d)(4). Clark's thick stack of submissions have little to do with the FECA or even with the Clark letter itself and certainly could not form the basis for FEC investigation.

Moreover, for all its invective and rhetoric, the Clark letter does not allege a single violation of the FECA, no matter how liberally construed. Instead, the Clark letter and its attached materials set forth a hodgepodge of unrelated and unsupported allegations regarding the NRA's internal organizational structure, business practices, and financial affairs. These allegations are vague, unsworn and unsupported. The meager references to elections consist mainly of criticism of internal NRA organizational elections. (For instance, one of Clark's exhibits alleges that the February 1998 meeting of the NRA's Board of Directors failed to comply with Roberts' Rules of Order.) These

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elections and meetings are, of course, neither governed by the Act nor within the Commission's jurisdiction.

The few references to federal elections are so unintelligible that no respondent could reasonably discern whether a violation of the FECA has even been alleged and, if so, what the nature of the violation might be. For instance, in one of its few references to federal elections, the Clark letter alleges that funds raised through NRA solicitations are used as " 'soft money' for various U.S. Congressional and Senatorial candidates." To the extent it is comprehensible, Clark's criticism appears to be that these expenditures do not advance the NRA's goals, rather than that they violate the FECA. (They may, for instance, be lawful independent expenditures with which he simply disagrees). The Commission can not act upon the basis of a "complaint" so vague that it does not appear to allege a violation of the FECA.

The same may also be said of Mr. Clark's amorphous assertion — based on the rank hearsay of undisclosed persons — that the NRA's use of the same vendors as Arena PAC "could" or "can be utilized" to somehow "launder" "NRA money into selected political activities." Mr. Clark does not even appear to *allege* any such "laundering," but simply says that this would be illegal "if these allegations are true." In any event, even if the Clark letter was not rank speculation, the NRA can hardly respond factually to these allegations, since it is not clear what FECA provisions it is alleged to have violated, if any, in what manner, if at all, and by which individuals, if any. In short, Clark's letter is so vague that it does not appear to allege unlawful conduct. To the extent it does, the NRA categorically denies any such wrongdoing. Similarly, the letter of Barbara Bonfiglio, Arena PAC's treasurer, dated December 22, 1998 (attached), also denies Clark's allegations regarding the Arena PAC.

Each of these deficiencies independently compels the conclusion that no action should be taken on the basis of the Clark letter. Clark's various accusations have little if anything to do with federal elections and do not allege a violation of the FECA.

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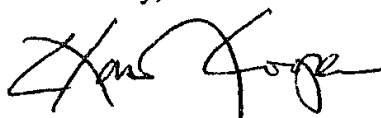
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Moreover, they fail to satisfy the most basic procedural requirements that the FECA and the Commission established to protect respondents from such baseless "complaints." For all of these reasons, the NRA respectfully requests that the Commission take no action on MUR 4865.

Sincerely,



Charles J. Cooper

Enclosure

2004-01-15 14:00

CHARLTON HESTON'S ARENA PAC

Charlton Heston
Chairman

Tony Makris
Executive Director

December 22, 1998

General Counsel's Office
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20036

RE: MJR 4863

Dear Sir or Madam:

This letter is submitted in response to your letter dated December 7, 1998, regarding a complaint received by your office which seems to allege some wrongdoing on the part of Arena PAC and myself as Treasurer.

I have reviewed the materials which were attached to your letter and have found no allegations which amount to a violation of any of the rules of the Federal Election Commission. The inferences contained in the complaint are merely that and the complainant has offered nothing, either past or present, which requires either a more detailed response or further investigation by the Commission.

Although Mr. Charlton Heston is the Chairman of Arena PAC as well as the President of the NRA, the two organizations are not related in any way. Moreover, the election activities of Arena PAC are not carried out in coordination with the NRA or any political organization sponsored by the NRA. Arena PAC was organized before Mr. Heston became President of the NRA and at a time when Mr. Heston had no relationship with the NRA whatsoever.

I appreciate the opportunity to respond. Please do not hesitate to contact me if additional information is required.

Sincerely,

Barbara W. Bonfiglio
Barbara Wixen Bonfiglio
Treasurer